

HOUSE BILL 2764

By Curtiss

AN ACT to amend Tennessee Code Annotated, Title 66,
Chapter 34, Part 1, relative to contractor license.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 66-34-103(e), is amended by adding the following language as a new subdivision (3):

(3) In addition to the fine imposed pursuant to subdivisions (e)(2)(A) and (B), the court shall order restitution be made to the owner of the retained funds. In determining the appropriate amount of restitution, the formula stated in § 40-35-304 shall be used.

SECTION 2. Tennessee Code Annotated, Section 66-34-104(a), is amended by adding the language "which must be established upon the withholding of any retainage" prior to the period.

SECTION 3. Tennessee Code Annotated, Section 66-34-104(b), is amended by deleting the word "deposit" and by substituting instead the word "withholding".

SECTION 4. Tennessee Code Annotated, Section 66-34-104(c), is amended by deleting the language "three hundred dollars (\$300)" and by substituting instead the language "three hundred dollar (\$300) penalty".

SECTION 5. Tennessee Code Annotated, Section 66-34-104, is amended by inserting the following as a new subsection (d) and by redesignating the existing subsections (d) through (j) accordingly:

(d) The party with the responsibility for depositing the retained amount in a separate, interest-bearing, escrow account with a third party shall have the affirmative duty to provide written notice that it has complied with the requirements of this section to

any prime contractor upon withholding the amount of retained funds from each and every application for payment, including:

- (1) Identification of the name of the financial institution with whom the escrow account has been established;
- (2) Account number; and
- (3) Amount of retained funds that are deposited in the escrow account with the third party.

SECTION 6. This act shall take effect July 1, 2012, the public welfare requiring it.